

54

FILED
Clerk
District Court

SEP 29 2006

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

For The Northern Mariana Islands
By _____
(Deputy Clerk)

ABELLANOSA, JOANNA, et al.,

Plaintiffs,

v.

L&T INTERNATIONAL CORP.,

Defendant.

Civil Action No. 05-0010

**DECLARATION IN SUPPORT
OF PLAINTIFFS' OPPOSITION
TO DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

I, Eulalia Nimo, hereby declare as follows:

1. I am over the age of eighteen years old, have personal knowledge of the facts set forth herein, am competent to testify as to these facts if called as a witness in a court of law, and if called would testify as stated herein.
2. On or about January, 2004, I went to L&T to apply for an advertised job vacancy for hand packers.
3. On the second week of February, I was asked to report at L&T for an interview.
4. During our orientation, Cory Quing told us that if our performance is satisfactory, they would give us overtime and review our contract for renewal.

I.

MEDICAL FEES
(Physical Examination Fee
and Health Certificate Fee)

5. A few days later, I got a call from L&T asking me to report to HR office. When I arrived at HR I met with Baby Lopez, who identified herself as an HR staff person. Baby told me that I would need to get a new medical

JOE HILL
Hill Law Offices
P.O. Box 500917 ~ Saipan CM-MP 96950 ~
TEL. NO. (670) 234-6860/7743 ~ FAX: 234-7753

ORIGINAL

examination and health certificate before my employment application/documentation could be completed and processed.

6. Baby told me to get medical examination. I asked her how the medical examination and health certificate are going to be paid for. Baby said you pay for it now and on your renewal L&T will pay. I understood this to mean that if I did my job and not violate any company rules, that I would be renewed for a second year and that during that second year L&T would pay/repay for the health examination and health certificate fees.

7. I was not paid nor reimbursed for my services and time spent getting the medical examination.

II. CONTRACT SIGNING

8. I have had signed several non-resident contracts before. Basically, annually since then, each year, my employers used and had me sign a standard form labor contract provided by DOL. I became familiar with the basic terms of the DOL standard form contract. A copy of such standard form contract is attached as *Exhibit "A"* to Plaintiffs' Amended Opposition.

9. In 2004, when L&T HR staff Baby Lopez handed me their contract form, with only the signature page showing, and insisting that I sign, I had no reason to believe it was not the standard DOL form contract. Prior to signing this L&T contract form and at the time it was presented to me in the HR for signing, I was not given an opportunity to read the contract before signing it. When it was presented to me in the HR office, Baby Lopez just pushed the

JOE HILL
Hill Law Offices
P.O. Box 500917 ~ Saipan CM-MP 96950 ~
TEL. NO. (670) 234-6860/7743 ~ FAX: 234-7753

document through the counter-window with the pages turned back, showing only the signature page, and pointed to where I was to sign it, and said sign, which I did without reading it. There were many other applicants present and waiting in line. The HR staff was rushing me and other applicants by insisting that I and the other applicants I saw present, hurry up and quickly sign, without delaying the document processing. From the mood and way the HR staff was acting, I was made fearful that if I didn't just sign the signature page as instructed, I would lose the job opportunity especially since none of the other applicants I saw there held up the line by or took time to read the contract document. I observed the HR staff acting the same way with other workers who signed before and after my turn. Neither Baby Lopez, nor any one else, ever showed me my contract document until the time and date they asked me (us) to sign at HR. I was never given a copy of the L&T contract document I signed before my termination on or about May 13, 2004. After my termination, I was surprised when I later learned of some of the things and terms in L&T's self-styled contract. Had I known that some of the things and terms in L&T's self-styled contract are different from those contained in DOL standard form contract, I would not have agreed to it.

III. PERFORMANCE EVALUATION

10. There was no individualized measurement or testing to determine my or each Packer's individual performance or production. The only production measurement or test was done by counting the output (production) from each of the different lines of Packers. There was really no way for me as an individual packer to control or show an increase in the number of products because I was just one individual on the line with many others. In the packing section our work was performed by groups of workers on so-called

1 lines. The packages or items we were assigned to work on often varied from
2 day to day. Our Head Supervisor in the packing section was Cao, Li Qun, who
3 is Chinese. When I and other Filipino workers tried to ask her questions
4 regarding our work she could not answer nor explain because she does not
5 speak english fluently. (See Defendant's Response to Plaintiffs' First Set of
6 Request for Interrogatories No. 49a).

7
8 IV.
9 TERMINATION

10 11. I was employed and worked for L&T International Corporation as a hand
11 packer, from on or about February 2004 to May 13, 2004, when I and other
12 workers in the hand packing section were summoned by the calling of our
13 individual names over the public address system, to report to the Human
14 Resources (HR) office. I believe and understand we were called in two batches,
15 one about 3:00 p.m. and one about 5:00 p.m. (See Deposition of Jack Torres,
16 page 97, lines 14-17).

17 12. I did not know why we were being called to come to HR. I thought that
18 we were being called regarding receipt of our anticipated ATM Cards that L&T
19 had previously given us and had us fill out an application for, as they told me
20 and other workers present, to make it easier and more convenient for (us)
21 workers to access and get our anticipated bi-weekly wage payments without
22 having to stand in line waiting for and trying to cash payroll checks. I was
23 made more assured of my continued employment and anticipated pay check
24 by L&T having asked me and other workers to set up these ATM accounts to
25 facilitate our anticipated payroll check payments.

1 13. As we arrived at the designated meeting room, I observed other workers,
2 and Corazon Quing, Malou Ernest and Rhodora Bernabe, known to us as HR
3 staff, were present at the May 13, 2004 meeting.

4 14. I did not see or hear Corazon Quing read or reading from any document
5 or the so-called "communication plan" as described and stated in Exhibit "A"
6 attached to the Declaration of Corazon Quing.

7 15. More specifically, I (we) were not told as stated by Corazon Quing that we
8 the workers, had the right to appeal our termination to the "Legal
9 Department" of L&T or to any one else.

10 16. Neither Malou Ernest, Corazon Quing nor any one else at the May 13,
11 2004 meeting, informed us, that the purpose of the so-called second check
12 was "to cover for 10 days pay in lieu of notice," as stated in paragraph 7,
13 Declaration of Corazon Quing. Additionally, L&T's own RIF policy required,
14 as proposed RIF workers, that I (we) be given "written notice of separation at
15 least 15 days prior to the effective date of separation, or severance pay in lieu
16 of notice." (See Ex. "D" Deposition of Torres, and page 88 lines 6-8 and lines
17 20-24).

18 17. It was my honest belief that I and my co-workers were terminated on May
19 13, 2004 and that the termination was effective immediately on and from May
20 13, 2004, because I (we) were told by HR staff at the May 13, 2004 meeting
21 that today (May 13, 2004) was our last day of employment and they demanded
22 that we give up and turn in our company ID cards which were required and
23 needed for company employees to freely enter company premises; and more
24 importantly, our I.D.s were swipe-cards for the time-clocks so we could not
25 clock in or out without them, in addition to being required to "turn over any

1 and all company properties in your possession... on or before May 13, 2004"
 2 as stated in the Notice of Termination. (See Ex. "D," Defendant's
 3 Memorandum).

4 18. As a result I believed and felt that I was terminated and forced to stop
 5 working on May 13, 2004, the same date that the Notice of Termination (dated
 6 May 12, 2004) was given to me. Hence, I was not given the required prior
 7 notice of termination and/or of the RIF.

8 19. I and the other plaintiffs worked a set work schedule and shift, and
 9 worked Monday through Saturday, seven (7) hours a day, six (6) days a week,
 10 for a total of forty-two (42) hours each work week, which included two (2) hour
 11 overtime each work week while employed at L&T.

12 20. At the time of my termination, no one from L&T offered to assist me in
 13 finding other employment or told me that they would or could assist me in
 14 getting employment with affiliate companies of L&T.

15 16 V. 17 EMOTIONAL DISTRESS

18 21. The termination, being announced without any prior notice, counseling
 19 or discussion about employment options with other companies or L&T caused
 20 me severe shock, embarrassment and humiliation. The way L&T broke the
 21 news of termination to us, not individually or privately, but *en masse* in front of all the
 22 other employees, resulted in wailing, crying and shouting and pandemonium among
 23 the workers present; I and the other workers present were crying and hugging each
 24 other and trying to console one another. I felt anger toward L&T.

25 22. As a result of my termination, I have had sleepless nights. I always have

1 severe head aches. I lost my appetite to eat.

2 23. For several months after L&T terminated my employment, I was too
3 embarrassed and ashamed to go to go out because of fear of being asked
4 about my sudden firing and termination by L&T. I felt like a social outcast.

5 24. On December 2004, I decided to live with my boyfriend so I would have
6 somebody who could support me during this ordeal that L&T had caused me
7 to suffer. My severe emotional distress left me physically and emotionally
8 drained.

9 I declare under penalty of perjury that the foregoing is true and correct
10 and that this declaration was executed this 28th day of September, 2006.

11
12 /S/ Eulalia Nimo
13 Eulalia Nimo
14 Declarant
15
16
17
18
19
20
21
22
23
24
25